

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

WILLIAM BAGBY, )  
                        )  
Petitioner,         )  
                        )  
v.                     ) No. CIV-05-1254-L  
                        )  
ERIC FRANKLIN,      )  
                        )  
Respondent.         )

**O R D E R**

This matter is before the court for review of the Report and Recommendation entered by the Honorable Valerie K. Couch on January 24, 2006, in which she recommended that the Petition for Habeas Corpus Relief be dismissed for failure to exhaust state court remedies. The court file reflects that no party has objected to the Report and Recommendation within the time limits prescribed and to date, petitioner has failed to respond to the Report. Having conducted a *de novo* review of this matter, the court finds that the Report and Recommendation should be adopted in its entirety.

The Petition for Habeas Corpus Relief (Doc. No. 1) is DISMISSED without prejudice for failure to exhaust. In light of this ruling, petitioner's Motion for Appointment of Counsel (Doc. No. 2) and Motion for Evidentiary Hearing (Doc.

No. 3) are DENIED. Judgment will issue accordingly.

It is so ordered this 6th day of March, 2006.

Tim Leonard  
TIM LEONARD  
United States District Judge